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July 31, 2003

31515.00001

VIA ELECTRONIC SUBMISSION

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

John Muleta
Chief, Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

David Solomon
Chief, Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Interim Report of NOW Licenses, LLC, in CC Docket No. 94-102

Dear Madam and Sirs:

On behalf of NOW Licenses, LLC ("NOW"), we are electronically transmitting herewith, an Interim Report with regard to NOW's progress toward compliance with the Commission's Rules governing wireless Enhanced 911 deployment.

Should there be any questions in connection with this filing, kindly refer them to the undersigned.

Respectfully submitted,



Christine M. Crowe
for PAUL, HASTINGS, JANOFSKY & WALKER LLP

Enclosure

WDC/249829.1

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Revision of the Commission's Rules to)	CC Docket No. 94-102
Ensure Compatibility with Enhanced 911)	
Emergency Calling Systems)	

INTERIM REPORT OF NOW LICENSES, LLC

NOW Licenses, LLC ("NOW"), by its attorneys and pursuant to the *Order to Stay*¹ and the *Public Notice*² adopted in the above-captioned proceeding, hereby submits this interim report (the "Interim Report") on NOW's progress toward compliance with the Commission's Rules governing wireless Enhanced 911 ("E911") deployment. The format of the Interim Report follows the outline set forth in the *Public Notice*.

I. Number of Phase I and II Requests from PSAPs

NOW has received 28 requests from Public Safety Answering Points ("PSAPs") for Phase I E911 services. NOW has reviewed those requests, and believes that they are valid. NOW has responded to each of the 28 requests. NOW sent standard Non-Disclosure Agreements ("NDAs") to each of the requesting PSAPs. Only 11 of those PSAPs executed the NDAs. The remaining 17 PSAPs did not respond to NOW after receiving the NDA. NOW is

¹ *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Order to Stay*, 17 FCC Rcd. 14,841 (2002) (the "*Order to Stay*").

² *Wireless Telecommunications Bureau Provides Further Guidance on Interim Report Filings by Small Sized Carriers*, DA 03-2113, CC Docket No. 94-102 (rel. June 30, 2003) (the "*Public Notice*").

unable to proceed with the remaining 17 PSAPs until they execute NDAs. With respect to the 11 PSAPs who executed NDAs, only two have followed up with NOW on those requests; the remaining nine have not communicated with NOW regarding implementation of Phase I service. The two PSAPs that have continued to communicate with NOW are the Roscommon County Central Dispatch ("Roscommon") and Leelanau County ("Leelanau"). NOW recently responded to Roscommon's most recent request of June, 2003, indicating that NOW would provide Phase I E911 service to Roscommon within six months of that request. The Leelanau request sought information regarding NOW's E911 Phase I deployment plan. NOW responded to the Leelanau request in January, 2002, providing the requested information. NOW has not received further correspondence from Leelanau. NOW has experienced difficulties on several levels in implementing the network upgrades to provide fully-functional Phase I services. Those factors are discussed in Section III, *infra*, regarding the ordering and installation of network equipment.

NOW has not received any requests from PSAPs for Phase II E911 services.

II. Specific Technology Choice

In its Petition for a Temporary and Limited Waiver of the E911 Phase II Location Technology Implementation Rules,³ NOW advised the Commission that it had selected a hybrid network and handset-based solution to comply with E911 requirements. NOW's solution consisted of a combination of a Network Software Solution ("NSS") and Enhanced Observed Time Difference of Arrival ("E-OTD") technology that the Commission previously had

³ Filed September 10, 2001.

approved for T-Mobile USA, Inc. (then known as VoiceStream Wireless) in connection with its E911 compliance efforts. NOW had selected the same solution as T-Mobile and other nationwide GSM carriers for multiple reasons. By employing the same solution as T-Mobile and the other nationwide GSM carriers, NOW would be able to provide Phase II E911 services to subscribers of those carriers when they roam on NOW's system. NOW's subscribers also will benefit because the national carriers will be able to provide them E911 services when they are roaming on their systems. Second, with nationwide carriers requiring development of the same technology for compliance with E911 rules, manufacturers would be more inclined to devote the time and resources necessary to develop and improve the technology for compliance with the Commission's location accuracy requirements.

Earlier this year, NOW learned that Cingular and AT&T Wireless decided to depart from the E-OTD hybrid approach and instead employ a network-based solution for E911 compliance. Subsequently, T-Mobile submitted a letter to the FCC advising that T-Mobile also had decided to convert to a network-based E911 solution.⁴ T-Mobile explained that it had reached the decision after careful consideration of the alternatives and that its decision was based upon the importance of GSM carriers employing consistent technologies to achieve E911 compliance. T-Mobile's decision ultimately was based upon the same factors that guided NOW in its original decision to implement the E-OTD hybrid solution.

In light of the abandonment of E-OTD by the three nationwide GSM carriers, NOW has reconsidered its choice of E911 solution and has decided to implement a network-based technology approach. Based upon the Commission's Order adopting the Consent Decree

⁴ See Letter from Robert A. Calaff of T-Mobile to John B. Muleta, *et al.*, dated March 21, 2003, filed in CC Docket No. 94-102.

between the Commission and T-Mobile, NOW understands that T-Mobile expects to have the network-based technology for Phase II compliance deployed and validated in T-Mobile's network by December 31, 2003.⁵ NOW intends to continue to work with its equipment manufacturer, Nortel, to deploy with same network solution as T-Mobile in order to be in a position to provide seamless Phase II E911 service to GSM roamers on its system.

III. Status on Ordering and/or Installing Necessary Network Equipment

NOW has experienced several difficulties that hinder NOW's ability to reach full compliance with the Commission's Rules. As explained in Section II, *supra*, NOW has decided to implement a network-based solution to achieve compliance with the Commission's E911 requirements. NOW employs Nortel equipment in its network. NOW has been working with Nortel to upgrade its switch software to version GSM-15. This will enable NOW to fully comply with Phase I requirements. NOW has been working toward implementing this software upgrade since 2001, and has requested from Nortel an official proposal and schedule for its software upgrade. Notwithstanding NOW's efforts, up until only recently, Nortel had not provided NOW with anything other than verbal estimates of the cost associated with upgrading to the GSM-15 software. Nortel also had not been able to provide NOW with a schedule to accomplish the software upgrade. NOW is working to resolve the issues with Nortel. Nortel recently supplied NOW with partial cost information. NOW is working with Nortel to secure more complete information, and intends to have the software upgrade completed by the end of 2003.

⁵ *In the Matter of T-Mobile USA, Inc.*, Order, FCC 03-172 (rel. July 17, 2003), Consent Decree at n. 10 (the "T-Mobile Consent Decree").

With respect to Phase II requirements, it has been difficult to secure specific information from Nortel regarding what measures and upgrades are necessary to achieve full compliance. NOW believes that Nortel likely is working with other nationwide GSM carriers, such as T-Mobile, to develop and test the technology necessary for Phase II compliance. NOW will continue its efforts to secure more detailed information from Nortel with respect to Phase II compliance. However, like many smaller customers of equipment manufacturers, NOW does not expect to receive such information prior to the completion of the technology and testing with nationwide carriers.

NOW also faces financial hurdles which complicate compliance efforts. Nortel recently supplied NOW written information reflecting that the switch software upgrade to GSM-15 for Phase I compliance will cost approximately \$650,000. The cost of Phase II compliance will be in the range of an additional \$1,000,000 according to Nortel. The obligation to spend upwards of \$1.6 million for compliance is daunting for any company, particularly one that qualifies as a Very Small Business such as NOW. Notwithstanding this challenge, NOW has undertaken efforts to get access to the funds necessary to implement the upgrades required for full compliance. NOW is unable to borrow these funds under its current financing arrangements. NOW is exploring other avenues of potential capital infusions into the company. In addition, NOW has been working closely with the State of Michigan to secure approval for reimbursement of capital expenditures NOW makes toward E911 compliance. Unfortunately, the Michigan fund requires that carriers first make the capital expenditure, and later secure reimbursement. For NOW, the advance outlay of this amount of money presents a significant problem. NOW also has experienced difficulty in obtaining money from the state fund because NOW has been

unable to secure a written estimate of the costs of the necessary upgrades directly related to E911 from Nortel. NOW is working closely with members of the state subcommittee responsible for reviewing applications seeking reimbursement from the fund, and is preparing a third application for submission to the fund administrator in the near future. NOW is optimistic that some of the costs associated with E911 compliance may be defrayed by reimbursement from the state fund.

IV. Availability of ALI-Capable Handsets (if Applicable)

As discussed above, NOW has selected a network-based solution to comply with the Commission's E911 rules. Thus, the reporting requirements relating to handset deployment are not applicable to NOW's compliance efforts.

V. Estimated Date on Which Phase II Service will First be Available

As discussed above, there are many factors that may have an impact on NOW's ultimate compliance timetable. If NOW is successful in its efforts to overcome the obstacles it has faced in conjunction with E911 compliance, NOW anticipates that, once a Phase II-compliant technology is deployed and validated in a nationwide GSM carrier's network, it will be possible for smaller, non-nationwide, carriers to provide Phase II service in their service areas within six months of a valid request from a PSAP. The *T-Mobile Consent Decree* reflects that this should occur by December 31, 2003.⁶

NOW is unable to determine at this time the period of time necessary for a small carrier to provide Phase II service in response to a valid PSAP request received before the end of 2003.

⁶ *T-Mobile Consent Decree*, n. 10.

Equipment manufacturers presently are focusing their attention on completion of the technology. They will then turn their attention to testing and deployment of the technology in the networks of the nationwide carriers. Nationwide carriers are larger and more lucrative customers for manufacturers and, thus, will receive priority from manufacturers. The three nationwide GSM carriers also have entered into consent decrees with the Commission which require them to focus attention on deployment of the Phase II technology in a certain number of the switches within their networks,⁷ which will result in those large customers placing a significant amount of pressure on manufacturers to deploy the technology in their networks. These factors will make it more difficult for smaller carriers like NOW to get access to the technology, or the ability to deploy it, prior to its deployment in the nationwide carrier networks.


⁷ *T-Mobile Consent Decree; In the Matter of Cingular Wireless LLC*, Order, FCC 03-129 (rel. June 12, 2003); *AT&T Wireless Services, Inc.*, Order, 17 FCC Rcd. 19,938 (2002).

**VI. Whether NOW is on Schedule to Meet the
Ultimate Implementation Date of December 31, 2005?**

NOW will deploy a network-based E911 solution. Thus, the December 31, 2005 deadline for penetration of location capable handsets is not applicable. Nonetheless, based upon the timeframes outlined above with respect to NOW's Phase II compliance, NOW anticipates that it will be Phase II compliant by December 31, 2005.

Respectfully submitted,

NOW LICENSES, LLC

By: 
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& WALKER LLP
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Its Attorneys

July 31, 2003

DECLARATION

I, Jerry Heim, hereby declare that:

1. I am the Vice President - Finance of NOW Licenses, LLC ("NOW").
2. As Vice President - Finance, I am responsible for overseeing NOW's efforts toward compliance with the Federal Communications Commission's Rules governing wireless implementation of Enhanced 911 calling.
3. I have reviewed the foregoing Interim Report of NOW Licenses, LLC (the "Interim Report"). I also have interviewed certain employees of NOW who have been involved in the direct communications with PSAPs and manufacturers in conjunction with NOW's efforts toward compliance with the Commission's E911 rules. To the best of my knowledge, information and belief, the Report is true and accurate.

I declare, under penalty of perjury that the foregoing is true and correct. Executed on July 30, 2003.



Jerry Heim
Vice President - Finance